

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:
Richard D. Dettinger et al.

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Serial No.: 10/601,995

Group Art Unit: 3628

Confirmation No.: 9828

Examiner: Allen J. Jung

For: METHOD OF ESTABLISHING A DATA MANAGEMENT FEE STRUCTURE
BASED ON FINE GRAINED DATA ENTITIES

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
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April 5, 2010
Date

/Tammi Thomas/
Tammi Thomas

Dear Sir:

REPLY BRIEF

Applicants submit this Reply Brief to the Board of Patent Appeals in response to the Examiner's answer dated February 4, 2010.

While Applicants maintain each of the arguments submitted in Applicants' previously submitted Appeal Brief, Applicants make the following further arguments in light of the Examiner's Answer.

Applicants' remarks/arguments begin on page 2 of this paper.

ARGUMENTS

1. Rejection of claims 1-37, 46-50 and 55-74 under 35 U.S.C. 103(a) as being unpatentable over *Coutts* in view of *Rao*.

The Applicable Law

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2141. Establishing a *prima facie* case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Applicants' Response to the Examiner's Argument

Respectfully, Applicants submit that the Examiner has not properly characterized the teachings of the references and/or the claims at issue. Accordingly, a *prima facie* case of obviousness has not been established.

The Examiner's Answer states that a data shoot could be a "field" of a database. Specifically, the Examiner's Answer states, in pertinent part:

In this case of *Rao's* Fig 2, the logical field would be GC1 and ME3 (since they are labels for units of data)

[R]eferring to *Rao's* Fig 2, a data shoot represented by CG1 could be a field in a database of multiple data shoots. ME3 could be another field in the same database of multiple data shoots. The Examiner believes this interpretation to be reasonable to one of ordinary skill in the art.

See Examiner's Answer, p. 26-27. Respectfully, persons of ordinary skill in the art will appreciate the distinction between *schema* and *data*. Such persons will recognize that the recited "physical fields" and "logical fields" pertain to a *schema* – rather than to any

data stored according to the schema. Figure 2 from Rao also illustrates the distinction between *schema* and *data*. For convenience, Figure 2 and the corresponding description are reproduced below:

	34A	34B	34C	34D	34E	34F	34G	34H
	DATA SHOOT ID	DATA DESCRIPTION	DATA PROVIDER & TERMS	COLLECTION DATE	RELATED DATA LINK	DATA USAGE INFORMATION	DATA QUALITY INFORMATION	DATA
33A	GC1	GULF COAST MARINE AREA ABC: 1600 SQUARE MILES; 3D	ABC COLLECTOR: LICENSED UNDER XYZ TERMS & CONDITIONS	01/01/1998-03/01/1998	LINK TO UPDATE SHOOT	(USAGE INFORMATION BY USER AND DATA UNIT)	QUALITY INFORMATION	(LINK TO DATA SET)
33B	ME3	MIDDLE EAST LAND AREA: 1500 SQUARE MILES; 4D	DEF OWNER: PURCHASED UNDER QRS TERMS & CONDITIONS	01/01/1999-06/01/1999	LINK TO COMPETITIVE SHOOT; LINK TO UPDATE SHOOT	(USAGE INFORMATION BY USER AND DATA UNIT)	QUALITY INFORMATION	(LINK TO DATA SET)

Fig. 2

With reference now to FIG. 2 there is shown geophysical database 32 including, for purposes of illustration, two data records 33A, 33B, each having eight data fields 34A-34H. Data field 34A stores a data shoot identifier by which a particular data shoot can be identified. Data field 34B stores information about the data including a geographical location of the data shoot and description of the data contained in the particular linked data set, including for example shoot parameters such as type of data, size of the area, number of lines, identities of particular data sectors contained within the shoot, etc. Data field 34C stores the identity of the provider of the particular data described in the particular record as well as the payment terms relevant to that data provider. Data field 34D stores the date or date range that the data shoot was collected and may optionally include the date on which the data was entered into geophysical database 32, while data field 34E stores any link(s) to related data.

Rao, Fig. 2; ¶ 51 (emphasis added). Rao describes a geophysical database 32 that stores different types of data, such as land seismic data and marine seismic data. See Rao, Fig. 1; ¶ 47. The schema includes fields such as Data Shoot ID 34A, Data Shoot ID 34B, etc. See Rao, Fig. 2; ¶ 51. The data that is stored according to the schema includes a value "OC1" and a value "ME3". Rao, at best, teaches setting prices based on these values in the data. Rao does not teach setting prices based on any fields defined in the schema. As will be recognized by persons of ordinary skill in the art, it is simply not a reasonable interpretation of the term "field" to refer to *data* that is

stored using a schema. A field can be the fields 34A-34H in Figure 2. A field simply cannot refer to the values (or cell values) of 33A or 33B, in any sense of the term “field” as known to persons of ordinary skill in the art.

Put another way, persons of ordinary skill in the art will not refer to “OC1” as “the ‘OC1’ field”. Instead, such persons will refer to “OC1” as “the ‘OC1’ value for the ‘Data Shoot ID’ field”. In the context of processing a query, based on Applicants’ disclosure, prices may be determined based on the fields (of the schema) referenced by the query – and prior to retrieving any data. In contrast, *Rao* can only set prices subsequent to retrieving data, because *Rao* teaches setting prices based on retrieved data. Therefore, the rationale presented in the Examiner’s Answer – i.e., that a data shoot could be a “field” of a database – is untenable. Consequently, *Coutts*, even in view of *Rao*, fails to teach “each fee schedule for a given logical field defines a fee to be charged when the given logical field is involved in an abstract operation to access a physical entity corresponding to the given logical field.” Accordingly, Applicants respectfully submit that the rejection is defective and should be reversed.

2. Rejection of claims 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Coutts*, in view of *Rao*, and further in view of *Lyons*.

Applicants’ Response to the Examiner’s Argument

The rejection to claims 51-53 incorporates the rejection to independent claims 46, over *Coutts* in view of *Rao*. As stated above, the rejection to independent claim 46 is believed to be overcome. Accordingly, the rejection to claims 51-53 is also believed to be overcome. Therefore, the reversal of the rejection to these claims is respectfully requested.

CONCLUSION

The Examiner errs in finding that:

1. Claims 1-37, 46-50 and 55-74 are unpatentable over *Coutts* in view of *Rao*; and
2. Claims 51-53 are unpatentable over *Coutts* in view of *Rao* and further in view of *Lyons*.

Withdrawal of the rejections and allowance of all claims is respectfully requested.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

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